

4

Bottlenose Dolphin Take Reduction Team

A Summary of the Fourth Meeting

Wilmington, NC

March 27 – 28, 2002

**Prepared by
Jim Feldt and Hans Neuhauser
Facilitators**

April 8, 2002

Introduction

The fourth meeting of the Bottlenose Dolphin Take Reduction Team (TRT) was held on March 27 and 28, 2002 at the Hilton Riverside in Wilmington, North Carolina. Kathy Wang of the National Marine Fisheries Service (NMFS) convened the meeting. The primary foci of the meeting were: (1) hearing responses to questions raised earlier by the TRT members, (2) refining the plans regarding topics and management units previously addressed, and (3) developing preliminary and tentative plans for topics and management units that had not already been addressed, that is, Research and the Summer Northern North Carolina and Summer Southern North Carolina Management Units. This document summarizes the results of the third and fourth items.

Participants

TRT Members and Alternates

TRT members and alternates present for the fourth meeting were as follows:

David A. Beresoff, Tina Berger, Paul Biermann, David Cupka, Joe DeAlteris, Lewis S. Gillingham, Charlotte Gray, Mike Greco, Bruce A. Halgren, Chris Hickman, Rick Marks, William McLellan, Emily Menashes, Fentress Munden, Robert E. Munson, Margaret Murphy, William Outten, Carl A. Poppell, Tim Ragen, Andrew Read, John Reynolds, Sentiel Rommel, Richard Seagraves, W. Mark Swingle, Kathy Wang, Robert E. West, David Woolman, Nina M. Young, Sharon Young, Doug Haymans (alternate for Barb Zoodsma), Russell Hudson (alternate for Mike Baker), Jeff Oden (alternate for Douglas Guthrie), and Dave Swanner (alternate for Mike Peele).

TRT members who were not present and not represented by an alternate were Gordon Colvin, Martin Dunson, Fulton Love, Richard Luedtke, Dave Martin, Ken Moran, Peter Nixon, Jerry Schill, Leonard Voss, Christopher David Walker, A. D. Willis, and Christopher Zeman.

Presenters and Facilitators

Presenters at the fourth meeting were Bill Foster, Aleta A. Hohn, and Debra Palka. The facilitators were Jim Feldt and Hans Neuhauser.

Observers

Fifteen observers signed the registration sheets indicating their attendance at part of or for the entire TRT meeting. Their names and affiliations are provided in Appendix 1.

Announcements

The April meeting will be in Baltimore at the Holiday Inn Inner Harbor on April 23, 24, and 25. The meeting will start at 9:00 on April 23 and end by 5:00 on April 25. Call either 410.685.3500 or 1-800-HOLIDAY to make your reservation. You should call within the next two weeks, preferably sooner. The magic words are "Bottlenose Dolphin Team" or National Marine

Fisheries Service. Additionally, you can identify the group by the letters, “NMF.” An invitation/notice will be sent to you.

Presentations and Information about Documents

Emily Menashes explained that Documents 3-27-02K, L and M are from the Center for Independent Experts (CIE) review. Document 3-27-02 K is the most thorough review. We asked that the reviewers respond to some specific questions. They told us that the data were used appropriately; that the methods that were used were okay; that given the limited extent of the data, the data were sufficient to support what was done; and that the assumptions were stated, although the uncertainty was not stated quantitatively. The major aspects of the CIE review stated that the peer review were good enough. If you have major concerns or questions about these documents, route them to Emily. Alternatively, you could talk to Aleta or Debi about the CIE reviews at this meeting.

Kathy Wang explained that the Draft Potential Regulatory Text for the Bottlenose Dolphin Take Reduction Plan Implementing Regulations (Document 3-27-02 X) provides some preliminary language that might be used to implement elements of the plan that were developed at the last meeting. This document also includes questions from the NMFS staff where they needed guidance from the Team.

The Fishing Catalog was included because it shows twine sizes, etc. Using this might help with use of a consistent terminology.

Bill Foster gave an update on the Gear Group meeting that occurred on March 26. This was a two-hour gathering to discuss the preliminary TRT recommendations, attempt to answer some of the NMFS questions about tentative recommendations, and discuss ongoing research and potential research. Bill indicated that the online mailing list belongs to the team and can be used to conduct a conversation.

Kathy Wang pointed out other documents (3-27-02 O and 3-27-02 Q) and indicated that Debi Palka will be coming to the meeting this afternoon. Documents 3-27-02 B, C D, and P are also from Debi.

Question: Was the new monk fish rule only proposed or has it taken effect?

Answer: It is an interim final rule. It went into effect two weeks ago and will apply for 240 days.

Aleta Hohn’s Presentation on Possible Effects of FMPs

Aleta Hohn made a presentation on documents 3-27-02 F and G about the assessment of the effects of changes in FMPs on the stranding of dolphins. 3-27-02 G relates to the stop net fishery. 3-27-02 F looks at the requests for information on the effects of the spiny dogfish fishery closing. It appears that the closing has led to fewer strandings (figure 1). Figure 3 attempts to look at a potential shift of effort from spiny dogfish into bluefish fishery. It is during the winter months when the fishing effort is most intense in NC waters. (The fall and winter

months are the most active). The bluefish landings and trips are the total number. However, the total number can be confusing, since in the winter months many of the bluefish are taken from a significant distance out from shore. The table and analysis might be more useful if it separated the data by bluefish taken closer than three miles and further than 3 miles from shore. It is also confusing that there are two different sorts of gear used—a small mesh bluefish fishery and a medium mesh bluefish fishery. The observer data are not sufficient to distinguish between these fisheries and catches. The magnitude of stranding reductions looks like it might be in the order of magnitude that Debi had predicted. Clearly the number of strandings is lower and much lower during the months when the spiny dogfish fishery would have operated. Given the limits on spiny dogfish take and the number of fish caught in northern waters, the net result for NC of how the fishery was managed was that there was no directed spiny dogfish fishery in NC. How come CBD (cannot be determined) strandings are included in the analysis? Figure 2 shows the different strandings. The CBDs were used in the other analyses to get the numbers up high enough to support the methods. The abundance of dolphins along the NC coast is lower in the summer than in the winter, which is one of the confounding factors. The authors have included information in this paper to show how the strandings data might be used in the future to assess impacts of the plan. Figure 1 shows us that the dogfish trips would have been a better measure than landings. For monitoring, we might want to think about which measures to use.

Question: Can we clarify? There seems to be a connection of spiny dogfish and strandings, but what is the relation of strandings to bluefish?

Response: The landings data for bluefish are available only through winter 2000. Confounding factors make it hard to be clear about things, e.g., the number of dolphins in NC waters goes up in winter, so is it simply due to the fact that there are more dolphins or due to the fishing that we observe higher numbers of strandings? We have few observers on bluefish trips, especially in the federal waters. The only thing that we can definitely say is that the number of strandings has gone down since the spiny dogfish fishery closed. From figure 4 we can observe that we cannot predict much of the observed variation in strandings with spiny dogfish landings and trips, as shown in the very low r^2 values. From figure 5 we see that the r^2 values are mostly weak for bluefish trips and landings as a predictor of dolphin strandings.

Question: In NC wouldn't this look the same with croaker landings?

Answer: Yes. It likely would. It may all go up just because the dolphins are here in larger numbers in the winter.

Comment: Bluefish are graded as large, medium, and small fish. The large fish are only landed from November to April. The medium bluefish are landed in about the same time frame as Spanish mackerel. This analysis would be better if it was to look at large fish. NC includes fish size in its database.

Comment: Looking at Figure 5, the winter bluefish landings are much greater than are the landings in the summer. In the winter these fish are persecuted in waters outside of the coastal dolphin habitat. The offshore fishermen are using 4-inch to 5.5-inch mesh.

Aleta indicated that the data would be obtained from NC and the analysis would still be done again. She also stated that she was not trying to implicate bluefish in the strandings. This paper was trying to assess the shift of effort away from the spiny dogfish fishery.

Question: In these NC data, did you look at gear type? In NC in some years we have bluefish landed by otter trawls.

Answer: These are gillnet landings.

Question: This was done with limited data. Why didn't you use the 2001 data?

Answer: Since these are regulated fisheries, they are required to report weekly. The data will not be of the same quality but it would be timelier. Answer: The state told us the data was still being checked.

Comment: Even if strandings data do not help with monitoring, they give us other information. The limitations of the stranding data again emphasize the need to have more observer coverage.

Sea Turtles

Kathy Wang stated that the mention of the news release on monkfish should have reminded her about sea turtles. Some of the attorneys are arguing that a TRP in essence authorizes fisheries to continue in state waters. The ESA (Endangered Species Act) limitations will need to be considered as the TRP recommendations go forward. Efforts will need to be made to protect sea turtles. A turtle group has been formed by the NMFS to consider protection of these animals in a manner similar to the TRT. That group was pleased with the direction of this Team's recommendations. It is possible that additional restrictions will be needed in some summer fisheries to protect turtles. This Team should think about what might be done to protect turtles at the same time that plans are developed to protect dolphins.

Question: This is a big concern to the fishing industry. Will the ESA staff review the plan and comment back to us or will they impose their own changes on our plan?

Response: NMFS is concerned about this too. We have not yet worked out how this consultation on the ESA will play out. The region will probably draft the consultation, but everything will have to go to headquarters for review. They would change our regulations only if we are doing something to injure turtles.

Question: You mentioned that it is in the summer time that there is a concern about turtles. Can we get guidance on this to help us?

Answer: Therese Conant said to be mindful of the summer months, but gave no specifics. Therese is in the office and we can call her to get real-time information.

Question: We already have made tentative recommendations and will likely continue to do so. As we go along, can we get a heads-up about whether what we are coming up with will be sufficient or if it is not enough to satisfy the turtle group?

Answer: We can ask them. Generally, they are pleased with the direction of this team.

Question: If they can trump us, they should be here at the table. What are their concerns?

Answer: Mainly, their concerns are about large mesh and longer soak times. I agree that it would be good to have them here, but they could not attend.

Question: It is ridiculous to ask us to think about turtles now. I [fisherman] know nothing about turtles and have never caught one. What are we supposed to use as the basis for our thinking?

Answer: Therese Conant attended the first pre-meeting and talked about the ESA and how it relates to the TRP.

Question: Other TRTs have been discouraged by making a good faith effort to come up with a good plan and then having others who were not at the table reject elements of their plan. Why are we even bothering with this?

Answer: What is suggested is that we try to keep protection of turtles in mind, so that the turtle group does not shoot down what we come up with.

Question: Let's call Therese Conant and ask her what her concerns are. Is all that we need to do to make sure not to harm turtles.

Answer: It goes beyond that. We may need to make things better for turtles.

Following the Mid-Morning Break

Question: It was my impression that we would not be able to capture/count reductions in dolphin mortality from FMPs in our plan. Is that still the case?

Answer: Before we did not have data that would let us talk about these as reduction of take. Given what Aleta showed us, we may be able to comfortably count on a reduction from the FMP.

Question: This is all dynamic. Whatever we do in our plan, the NMFS can still close fisheries and do other things to respond to issues as they arise. Isn't that the case?

Answer: I hope that we can anticipate efforts to protect turtles and then not have our plan changed by the Turtle group. New regulations and closures will likely come, but we can anticipate things and try to avoid changes to the plan.

Question: I am confused. We are here for the MMPA. We have not been charged to deal with turtles and do not have the data. What more can we do?

Answer: We will call Therese Conant. I do not expect that this Team will devise a separate plan to deal with turtles. We should keep in mind that what we do will impact turtles.

Question: What fisheries are we "authorizing?"

Answer: Our plan can be interpreted as authorizing fisheries to continue to operate in state waters. I do not know what the final interpretation will be, but this has been identified as a potential federal nexus.

Question: We are not authorizing any fisheries to fish. That authorization is given under the Magnuson Act. What we are authorizing is the take of marine mammals by fisheries (under the MMPA). This is the reason for triggering a biological consultation. Our plan can be called into question where another species would be at jeopardy. We can be more in control of our destiny by anticipating potential effects on turtles so that this minimizes the after-the-fact changes to the plan in the consultation process. Is this what you mean?

Answer: Some of the lawyers seem to think that our plan will in essence authorize other fisheries.

Question: Even if someone was here, they could not give us definitive information on turtles. They have not yet looked at the big picture. If there is a jeopardy called, the Team could still have a voice and say in the reasonable and prudent alternatives. If we get to this point, would NMFS recognize the Team as having voice?

Answer: Yes. The Team could address the issues that are raised.

Question: There are turtle takes recorded by the observer program. Have mortalities been worked up? Are the data available?

Answer: Debi should be asked. We have summaries of turtle takes and could send them out prior to the next meeting. Marjorie is also looking at turtles.

Question: How many more meetings have we got? Bringing up a new issue this late in the process does not make sense. I am concerned.

Answer: I want you to be aware of what is happening, that is why I told you about this.

Comment: The last meeting was good. We had good dialogue. Now we hear this. It is like you dangled a carrot in front of us, we bit it, and now you took the stick and shoved it up our asses and broke it off.

Response: I understand that you are not happy with this. I appreciate everyone's frustration. I hope that this does not derail us from our good work. I would be surprised if the turtle group rejects our good work. Recognize that we are talking about a small NMFS staff that is trying to deal with marine mammals, birds, and other species. Let's just move on and do the best we can.

Comment: There is some information that we were given about turtles (Document 2-27-02 ac). According to that document, 68% of the turtles taken were in waters outside of the coastal bottlenose dolphin habitat. It does not appear that the issue is really very big for the Bottlenose Dolphin Team.

How the Facilitators Propose to Proceed

The facilitators explained how they thought the rest of the Team's work would proceed. They did this by showing the process from today through the end of the April meeting and then, in more detail, how the March meeting would proceed.

The Big Picture

March Session:

Continue to address the management units and the other issues related to the policy-level recommendations for the plan: winter mixed stock, northern NC summer, southern NC summer, SC/GA/FL, blue crab, research, education, observers, and other.

Beginning at this session and over the interim:

Drafting committees would be charged to work on the language, revising, editing, filling in the specifics—drafting and e-mailing to the TRT.

April 23-25 session in Baltimore:

Review the work from the drafting committees in subcommittee sessions, use plenary sessions to review, discuss, and revise, and at the end of Thursday present summaries of the recommendations to NMFS staff (hopefully staff that are further up the food chain).

The March 27-28 Session

Wednesday:

- Announcements and logistics/administrative stuff.
- Presentations on the preliminary expectations of the effects of the policies, etc.
- Work in small groups.

A North Carolina group:

- Finish Winter Mixed Stock (at the policy level)
- Northern NC Summer
- Southern NC Summer

A group to address new topics:

- Research (might have every group contribute their thoughts to a group that looks at an overall research plan)
- Other

Another group to review, revise, and add to:

- Migratory Summer
- SC/GA/FL
- Education
- Monitoring (include observers)

Thursday:

- Hear reports from the small groups in the morning.
- In the afternoon work in small groups to address concerns raised in the morning, engage in “drafting committee work,” and/or assign a drafting committee.

Discussion:

Question: What was the discussion about PBR? Where are we?

Answer: We have not revised the PBRs. At this point we are sticking with the numbers we have used all along.

Question: What about allocation of PBR for the migratory portion? I am uncomfortable with the allocation.

Answer: The SRG has recommended using the winter number.

Comment: Doc. 3-27-02 I summarizes gear.

Comment: If we call members of the team who are not here, please use Kathy’s credit card to make the calls in order to hold down the cost.

Post Lunch—Debi Palka on the Abundance Estimates

- Deb Palka stated that she wanted to make a short presentation on the abundance estimates from the winter surveys. (This abundance estimate is the one that the group will not use, but about which there were some questions.) She also indicated that she had a couple estimates pertaining to one management unit that she would make to that small group.
- The winter survey is now done. Documents 3-27-02 N and O pertain to the abundance estimates. This is still preliminary information. In particular response to questions that were raised, $g(0)$ is not equal to 1.0 (refer to Document 3-27-02 N, table 1, page 9. The data is for observation out to the 20-meter stratum, which is not the same thing as the coastal dolphin area as defined in the TRT process. You can see on this table that the two observer teams observed different animals, so $g(0)$ was not 1.0.
- One reviewer in the Center for Independent Experts suggested a promising approach or method for estimating $g(0)$. Pursuing this line of inquiry will require some time to implement.

Question: I would like to get into a discussion about the new estimates and the offshore animals found near the coast. Can we talk about this at some point?

Question: How could you get a $g(0)$ above 1.0?

Answer: These are still tentative and the estimates for certain small areas can result in a number very close to 1.0 or slightly above, e.g., at 1.01 as seen in the table. This estimate of $g(0)$ still does not take into account the animals that were missed because they were diving while

the fast moving plane passed overhead. Dive time was not included and may never be included in $g(0)$. This is due in part to the fact that the probability of not seeing an animal while it is diving is affected by the size of the group.

Question: Should this $g(0)$ estimate be made more cautionary with a statement that it is a conservative estimate?

Answer: Yes.

Question: When will we get a $g(0)$?

Answer: We can get one to use soon that will not include the dive time factor. A value that includes information for dive time and the size of groups will be an ongoing effort.

Question: Do you expect that the dolphins in a group dive in synchrony?

Answer: No. We do not expect that they are totally independent nor that they are always diving in synchrony. You can get an estimate of $g(0)$ by making some simplifying assumptions about their behavior, e.g., that they act independently or in synchrony.

Other Comments

- Tim Ragen noted that a group of Team members had had a discussion about monitoring. He indicated that he would be available to report on that discussion.
- Comment: I still want to discuss with the whole group the impact of having found offshore morphotype dolphins in inshore waters.

The rest of the day was spent with the Team members working in small groups.

Thursday Morning Announcements

Travel reimbursements are due by April 5.

A block of tickets to one of the evening games in Baltimore will be obtained. (People signed up, money was collected, and Bill Outten agreed to acquire the tickets.)

Aleta's Presentation—Document 3-27-02 E on Biopsy Sampling of Bottlenose Dolphin

- Most of the samples have been from around the home base, Beaufort. Samples are taken from either a small boat or a larger 41-foot utility boat. Most effort is within the defined coastal habitat and most effort is closer in than five miles from shore.
- There have been no sightings of dolphins in the zone between five miles from shore to fifteen miles from shore.
- Sometimes the team will sight an animal and track the dolphin for a length of time trying to get a biopsy sample.
- There were three near shore samples of offshore morphotype animals (taken from a group of about 20 animals) close in to the shore.
- An assumption was made that the near shore and offshore morphotypes spend most of their time in their habitats, but that they spend some time closer in or further out. We expect about an equal number of animals of each type to wander into the other zone. We do not think that this invalidates our gap analysis. We will review the data and re-do the gap analysis.

- The coastal animal found 81 k. from shore was in the Georgia area where even at that distance from shore the water is still quite shallow.

Question: I do not agree with your conclusion. I think that this makes me question your analysis.

Why don't you develop the abundance estimate and take biopsy samples at the same time?

Answer: We could not get the funding to do both surveying and biopsy sampling at the same time. (We will seek such funding in the future.) I think it is interesting that questions about this gap analysis are raised now when we accepted the earlier analysis.

Comment: I did not like the previous gap analysis. I have never thought that it was a strong and completely convincing analysis. Every year is different and variable, what we see in this year is what we see.

Comment: Prior to this, no offshore morphotypes were previously seen in the inshore areas but inshore animals were seen out further.

Comment: You need concurrent sampling and biopsies. You cannot assume that what was learned from a previous year applies to this year.

Question: Can you be sure that you are taking the biopsy samples from different animals?

Answer: We make a concerted effort not to sample the same animal.

Question: Could the 3 offshore samples all be from the same animal?

Answer: We have asked Patty to check the biopsy to make sure that we did not.

Question: Have you done any biopsy sampling in northern NC?

Answer: Yes. We just do not have the results back yet. I can say that in the Cape Fear area, all the samples out to five miles were from inshore animals.

Question: We now have two survey estimates but no knowledge about which is best. Should we (1) ask for a review of all data by SRG and (2) tell the agency that the data is not sufficient and must be better?

Answer: The NOAA scientists would support the need for continued research.

Question: Data is judged to be of unreliable nature and not to be used after about 5 years and if it is older than 7 years. Should the data go to the SRG for review before we proceed?

Answer: Lance is at sea. It will be some weeks before Lance is finished with the analysis and can send something to the SRG. After 8 years the number is reset to undefined.

Question: There are two issues. The first is Lance's analysis and the second relates to having a complete set of biopsies. When will we have these both?

Answer: We agree with you. We need to redo the abundance analysis from the 2002 survey.

We rushed through the analysis to have some numbers to show. Patty will be completing all of the biopsy samples soon, but the genetic analyses takes time and will not be done before the team finishes its recommendations.

Comment: I like to use the best data that we can. Even if we accept Lance's analysis, which I do not think we should do, the take still exceeds PBR in some areas and so it must be reduced.

Comment: In the NC group we are trying to look at a suite of things that can be done to reduce take (without saying that one particular change would reduce take by 17%). We are trying to suggest things that will not be overly onerous on the fishing industry. I don't think that we need to know today or tomorrow that PBR goes up or down a little bit. We still need to reduce the take.

Comment: The gillnet fishery is second in value only to the otter trawl fishery on the Atlantic coast. So I think that we will be causing harm to a group of people who are trying to make a

living. We are using 8-year-old data. We would be better off delaying our meeting and waiting for the new data to be reviewed.

Comment: There are not two abundance estimates. We do not have a new abundance estimate. It may be impossible to come up with an indefensible estimate from the new data. I think that the NC group is being reasonable and trying to make sensible policies with data that we all know is poor. We are doing the best we can with poor quality data.

Comment: We can get an N(min) from the new data because we got an N(min) from the poor data that was cobbled together from the old data.

Comment: We do not know where we are going. We are doing what we can in a common sense approach to reduce take. The spiny dogfish closure is reducing take, the gillnet changes will reduce some take, the striped bass fishery in VA is making changes to reduce take. We should not delay and postpone. We have made and are making a good faith effort to work together. We have momentum and should not stop. The agency has a timetable for the development of a TRP, although they have never made it on schedule. We could come up with a parallel process to look at the data and continue with the TRP. Hopefully, the two can be merged before a final rule is arrived at.

Comment: If NMFS can guarantee that there will be no changes to our plan we can go forward. If they are going to add things to the plan that we come up with to achieve a further reduction, then we cannot go forward and allow for more burdensome impacts on the fishermen.

Comment: You know that there will need to be analyses, etc. as the plan moves forward. We (NMFS) agree with you that there should be good faith measures to make reductions to approach PBR. The previous PBR of 25 was wrong and has been revised upward. We want to bring about reductions without adversely impacting fishermen. We hope that NMFS higher-ups will attend the Baltimore meeting. Again, recognize that there are people outside of NMFS who will have a voice in the development of the plan.

Comment: Maybe we can continue with our deliberations. In our group our ideas were not so draconian. Maybe, if we keep working, we will see that we are closer to where we want to be than we think.

Comment: I agree that we need to move forward. There are many uncertainties. We have to live with those. I want to be sure that we are not in the same position three or four years from now. We have made progress in getting better data. We need to make our best effort and state clearly that we did what we could given the poor quality of the data and the uncertainty. We can state that we had to work under unreasonable conditions (i.e., the poor data).

Comment: This is not the first Team that has had to operate with insufficient information. The offshore Team did what they could. We recognized that the only way to go forward was to reduce risk.

Comment: We are working with poor data. For the first time we are refusing to use new and better data.

Comment: When I started on this take reduction process, it was like starting a journey in a leaky rubber raft of positive thought in a sea of negativity and adversity. If after all of this effort, what we have done is to climb Mt. Everest in our underwear, only to have someone tells us that it was for naught, you will be hearing from me!

Comment: We have an older and a newer set of data, both with uncertainties. We are tied to using the reviewed (older data). We know that that number is too low. We also know that our bycatch estimate is too low—it does not include all of the gear types. We have

uncertainties about what constitutes the coastal habitat. The new winter survey was a much better survey. We are seeing significant decline in strandings with the closure of spiny dogfish fishery. The coastal habitat is not clearly understood (biopsies). So,

- Use the data that has been reviewed.
- Take the necessary time to conduct the analyses and get the analyses reviewed.
- New results will not be available in time for use in this TRPO.
- The timeline is ... (more than the six month time frame but potentially before this Team would meet for the final session)
- We can write into the preamble to the plan about the new data and the uncertainties.

Question: How long is the 1995 estimate of PBR no longer valid under MMPA?

Answer: NMFS guidelines suggest 8 years or 2003. That is not in the Act, only from our guidelines. After that point we have an undefined PBR. I am not trying to delay the process. We can make a good faith effort, but if you are sued it is a different ballgame.

Comment: You will be making a decision on a rule just about when the valid number expires. If you are sued you will lose. The timeline becomes crucial.

Response: By that time we may have a new estimate. But we do not know if we have a defensible estimate.

Question: Is it January of 2003 or November when the time limit will kick in?

Answer: It would be 8 years from the survey, which would be in January or February of 2003. If the number expires, PBR goes to something else. You have to use other methods to determine what the status is. Qualitative methods would be used to develop an estimate. However, there will be data to support a new PBR, rather than having it fall into an undefined status.

Question: Would the team come back together? Would we get to look at the plan again when there is new data and a supportable PBR number?

Answer: There have been plans all along to call the Team back together again periodically to look at developments and update the plan.

Comment: It is wholly unacceptable that after 15 years since the triggering event and after all of the months spent on this team that the agency would have done a new survey that could result in numbers that would be indefensible and could not be used.

Consideration of a Motion from a Fishermen's Caucus

A caucus of the fishermen proposed the following motion to be considered by the Team:

- A letter be sent to Dr. Hogarth requesting the Agency to: (1) send the winter 2002 survey results to the SRG for expedited review, comment, and/or approval for use as the "best available science;" and (2) if necessary, postpone the fifth meeting of the TRT until the review is completed.
- If (1) and (2) are not adopted by the TRT, we ask that a TRT letter be sent to Dr. Hogarth requesting a ruling be provided prior to the fifth meeting to determine if the 2002 winter bottlenose dolphin survey should be used as the "best available science" by the bottlenose dolphin TRT.

Question: How long would this review of the data take?

Answer: The current cruise will finish in two weeks. All of the biopsy samples taken on that cruise and other samples will need to be analyzed. This will take some months.

Question: How long will it take to come up with a new value for N min?

Answer: After we have performed a new gap analysis and habitat assessment so that we have a definition of the stocks, we can then go ahead and calculate a new value for N min. The calculation of N min will only take a couple of weeks after the stocks are defined.

Question: Would it be possible to speed things up and use the delineation of coastal and offshore dolphins that the SRG has already reviewed?

Answer: The previous delineations based upon the 1995 survey cannot be used for the 2002 data. A new delineation will have to be done based on the 2002 survey.

Comment: Another small group of Team members used the break to discuss parallel processes. The Team could proceed with its work and the data analyses and the review processes could proceed in parallel. The two could come together again in the final development of a new plan.

Comment: It is possible to re-evaluate the plan with new estimates. The Team will reconvene from time to time. There is a new estimate of about 15,000 animals, which would yield an N(min) of about 10,000 to 12,000. So, the number would not be hugely different. At this time we do not know what the number will be. It is all still quite squishy. The Team needs to move forward and recommend how to reduce take. The data will never be perfect. Sending a letter to Bill Hogarth will not change things.

Comment: The team has reserved a meeting to be held during the rule-making period.

Question: Under the Magnuson Act we could phase in a plan in light of emerging new data. Could different levels of effort kick in within a set of phases in the TRP?

Attorney's answer: Under the MMPA you have 6 months to develop a plan that will reach PBR. You should develop a reasonable approach to achieve PBR. The PBR value will change over time with new abundance estimates and changes in bycatch. The process exists for the plan to be changed annually.

Comment: If we could guarantee what will come out of the rule making process, we would be okay. But NMFS cannot guarantee what will be the result. At some point the squishiness will come out of the regulations. We will end up having to live with specifics.

Question: What happens under Magnuson when you know that the catch numbers are too low?

Answer: I do not agree with the earlier statement that was made that we know that the bycatch estimates are too low. Under the Magnuson Act we work with the best available data.

Comment: The mortality estimate would be a point estimate. But it would include a CV that establishes a range.

Comment: Here are the possible parallel processes that might be pursued:

Time	TRT Process	Data Analyses and Review
May	Team issues its recommendations. NMFS reviews recommendations and drafts the rules.	Begin the internal review of the data.
September	Conduct the 60-day public comment period and the Team meeting.	
November		SRG reviews the data.
December		Review completed and a revised estimate is issued.
February	A final plan is issued or a new plan is drafted and there is another comment period.	

Comment: I have no problem with asking for an expedited review of the data but would want the Team to proceed and not to delay. Keep in mind that the plan process will most likely lag somewhat.

Question: It sounds nice, but what if there are delays on the data review leg? We would have a plan without having the best possible data. Does anyone expect an increase in the allowable take of dolphins? ZMRG will be used as the reason for never allowing for more take.

Answer: What the Team has done so far is good. We (NMFS) will have to work to sell the plan no matter what the numeric value of PBR is. I am sorry that we ever showed you the preliminary numbers and data. The numbers are not negotiable. We should continue our efforts and make the best progress possible.

Comment: I am missing the point. Let us go back to what we were doing. The North Carolina group's ideas are not overly onerous. We are basically just recommending best management practices. I am happy with the parallel process timeline but not with the motion put forward by the fishermen's caucus.

Comment: We still have to deliver recommendations for a plan. We should proceed and state that things are squishy.

Comment: There are two separate things of which we should be aware. Our recommendations are not onerous. And what will happen once the Team is done and the development of the plan goes forward is an unknown.

Comment: What will come next is that we (NMFS/NOAA) will look to see if the measures put forward by the Team will likely achieve PBR. We will also look at the FMPs. We will use the TRT and the FMPs to determine if PBR will be reached, as was done with harbor porpoise. The right whale team made a good faith effort to recommend things to reduce take, even though with a PBR of zero, the only way to actually reach PBS would be to eliminate fishing in those waters, which we did not do. We look at the biology and the economics. It might be good to suggest levels of actions to be taken. You could set a base level and note the other actions that could be taken if a lower number of takes must be achieved. So, the FMPs will count in the overall effort to reach PBR, you could put forward levels of effort/recommendations, and the economic analysis will count.

Question: Is there any way to get an analysis of the gains in reduced take from the spiny dogfish closure?

Answer: You received that at the last meeting as a reduced bycatch rate.

Question: Can that be translated into a reduced take?

Answer: Yes. Take the bycatch rate and the landings from 2001 and calculate a take.

Comment: I think that we need that for all of the ideas being developed by the North Carolina group (refer to the so-called green sheet which was a working copy showing the in process discussions of the North Carolina group as of the end of the Wednesday session) to give the fishers a sense of where they stand on reaching PBR.

Comment: I am working under the assumption that the squishiness of the data actually benefits the fishermen. The squishiness means that everyone here is making a good faith effort. We will all accept good faith efforts now. A year from now we can look at things and see what has happened and take it from there.

Comment: If NMFS can and will change things, then I do not want to go forward.

Comment: Anyone or any side can challenge this in court. It is hard to imagine a plan that would look very different from what we propose.

Comment: In the harbor porpoise plan, NMFS did things that the Team did not propose and that the Team did not support. They added closures to the harbor porpoise plan. I worry about that sort of thing.

Comment: This Team has a meeting during the comment period. We can have a voice during that period and can stay in touch with the process. NMFS is giving us an opportunity to dog it through the whole way. I think with the spiny dogfish FMP and our efforts, we will be close to reaching PBR. If you think that we are off track, tell us now. Put it on the table now. Do not wait until the comment period. Let's get going and make more progress.

Revised Motion for a Letter

In light of the previous discussion, the fishermen called for another caucus. When they rejoined the Team they proposed an alternative motion as follows:

- The TRT send a letter to Dr. Hogarth requesting that he expedite the completion of the 2002 winter survey estimate, including biopsy results and SRG review prior to or in time for the public comment period for the proposed rule for the take reduction plan.
- A tentative version of the letter was also presented.

The Team revised the draft letter (refer to Appendix 3 in this document), reached consensus on sending the letter, and instructed the facilitators to sign and transmit the letter.

Request for Data

Request for data analysis for New Jersey: What would be the predicted effect on the Bottlenose Dolphin take estimates for NJ during the summer period if:

- (1) The observed take in the NJ large mesh shark fishery on 6/23/99 had not occurred; and if
- (2) The large mesh shark fishery in the summer migratory management area is not allowed to set overnight without use of anchored nets. [Debi Palka was going to check the wording on this second item.]

Work Accomplished by the Small Groups

This section presents the work accomplished by the small groups during the Wednesday afternoon session and on Thursday.

Group that Revisited the SC, GA, and FL Management Units and Blue Crabs

This group worked from the document entitled Draft Potential Regulatory Text for the Bottlenose Dolphin Take Reduction Plan Implementing Regulations Developed from Initial Team Recommendations (Revised 3/26/02), Document # 3-27-02 X. Appearing below are the sections of that document that the group altered and/or which they annotated. They appear to have made all of the changes with different colors of text and/or by marking deleted text with a crossed through line.

II. South Carolina, Georgia, and Florida Management Area Recommendations

The following recommendations do not pertain to the blue crab fishery:

Regulatory Options

A. Educate fishers about dolphin attraction to bait/bycatch. (per rec. brochure)

Existing, Comparable Regulatory Text:

1. "After notification from NMFS, fishers must attend a skipper education workshop before commencing fishing ~~each fishing season~~, and must recertify attendance at such workshops at least once every three years. For the 1997/1998 fishing season, all fishers must have attended one skipper education workshop by October 30, 1997. NMFS may waive the requirement to attend these workshops by notice to all vessel operators." (POCTRT 229.31(d))

or

2. "Beginning on January 1, 1999, the operator of a vessel may not fish with, set or haul back sink gillnets, or gillnet gear, or allow such gear to be in closed areas as specified under paragraph (b) of this section, unless the operator has satisfactorily completed the bycatch certification training program and possesses on board the vessel a valid bycatch training certificate issued by NMFS. Notice will be given announcing the times and locations of pinger certification training programs." (HPTRT 229.33(c))

Draft Potential Regulatory Text for BDTRP:

a. After notification from NMFS, fishers must attend a skipper education workshop before commencing fishing and must certify attendance at such workshops at least once every three years. For the 2003/2004 fishing season, all fishers must have attended one skipper education workshop by October 30, 2003. NMFS may waive the requirement to attend these workshops by notice to all fishers.

or

b. Beginning on October 30, 2003, the operator of a vessel may not fish with, set or haul back gillnets, or gillnet gear, or allow such gear to be in areas with gear restrictions as specified under paragraph x of this section, unless the operator has satisfactorily completed the bycatch certification training program and possesses on board the vessel a valid bycatch training certificate issued by NMFS. Notice will be given announcing the times and locations of bycatch certification training programs.

Issues:

- Do we want to make this mandatory or not? **YES**
- Which fisheries should participate in this?
- If non-vessel fisheries participate- would the text need to reflect that?
- Should this recommendation be expanded to the other areas/fisheries? **YES**

~~B. Require 1-yr. apprenticeship as mate. This must be done before allowing anyone to serve as captain of a shark gillnet vessel—generally inexperienced captains have had the takes in the shark fishery.~~

~~Existing, Comparable Regulatory Text: None.~~

Draft Potential Regulatory Text for BDTRP:

~~Requirements for Southeastern U.S. Atlantic shark gillnet fishery. Any person who owns or fishes with specified fishing gear in southeast U.S. waters must pass a one-year NMFS-approved apprenticeship program before operating a shark gillnet vessel as a captain.~~

Issues:

- ~~• Does NMFS have this authority over captain licenses?~~
- ~~• Instead, should NMFS withhold MMAP Authorizations to Southeastern U.S. Atlantic shark gillnet captains if they haven't fulfilled this requirement?~~
- ~~• Should there be a grandfather clause such that existing captains are exempted?~~
- ~~• Can NMFS support the logistics of managing/overseeing such a program?~~

The group discussed providing an endorsement by the team for a buyout of the shark gillnet fishery. However, there was no consensus on this issue.

C. Require net tending. Vessel must be within ~~100~~ 500 yd of net

Existing, Comparable Regulatory Text:

“Closure. Except as provided under paragraph (f)(3)(iii) of this section, no person may fish with shark gillnet gear in the U.S. restricted area during the closed period. The closed period for this area is from November 15 through March 31 of the following year, unless the Assistant Administrator changes that closed period in accordance with paragraph (g) of this section....No nets are set at night...” (ALWTRP 229.32(f)(3)ii and (iii)(A))

We can also check the King/Spanish Mackerel regulatory text (coastal migratory FMP) for their language

or

“No wet storage of gear. Anchored gillnet gear must be hauled out of the water at least once every 30 days.” ALWTRP 229.32(d)(1)(ii)

or

“From December 1 through March 31 of the following year, no person may fish with driftnet gear at night in the mid-Atlantic coastal waters unless that gear is tended. During that time, all driftnet gear set by that vessel in the mid-Atlantic coastal waters area must be removed from the water and stowed on board the vessel before a vessel returns to port.” ALWTRP 229.32(e)(1)

** Section dealing with strikenet provision may be more applicable? **

Draft Potential Regulatory Text for BDTRP:

Gear Restriction. No person may set gillnet in U.S. Atlantic waters south of the North Carolina/South Carolina border (give lat/long) unless that gear is within ~~100~~ 500 yards of the vessel or person. ~~Gillnet must be hauled out of the water at least once every x hours.~~ Gear must also be removed from the water and ~~stowed~~ placed on board the vessel before a vessel returns to port.

or

No person may fish with gillnet gear in U.S. Atlantic waters south of the North Carolina/South Carolina border (give lat/longs) unless that gear is within ~~100~~ 500 yards of the vessel or person.

Issues:

- How are we defining tending?
- How would the “no wet storage” provision affect shark gillnetters?
- How often should gillnets be hauled out of the water?
- [Does this work for shark gillnets \(they’re long, ~ 2700 yards, and may fish 2 nets\)](#)
- [Are nets set off shark gillnet vessels currently required to be attached to the vessel?](#)

D. Decrease depth of net for shark fishery. Fishers indicated takes have all been up near the corkline, so the idea is to drop that below the surface (~~10~~ 3' below surface [on a gangion with a buoy](#)) to allow dolphins to swim over net. The Pacific Offshore TRP had this requirement, but specified extenders of 36 fm on buoy lines. However, the Atlantic shark gillnet fishery uses nets of only ~ 30' deep, and often target surface schooling sharks.

Existing, Comparable Regulatory Text:

“Restrictions applicable to shark gillnet gear—(1) Management areas—(i) Southeast U.S. restricted area. The southeast U.S. restricted area consists of the area from 32 ° 00' N lat. (near Savannah, GA) south to 27°51'N lat. (near Sebastian Inlet, FL), extending from the shore eastward to 80°00' W long., unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section.” (ALWTRP 229.32(f)(1))

in combination with

“Gear marking requirements. From November 15 through March 31 of the following year, no person may fish with gillnet gear in the southeast U.S. observer area unless that gear is marked according to the gear marking code specified under paragraph (b) of this section....(ALWTRP 229.32(f)(2))

and

“Extenders. An extender is a line that attaches a buoy (float) to a drift gillnet’s floatline. The floatline is attached to the top of the drift gillnet. All extenders (buoy lines) must be at least 6 fathoms (36 ft; 10.9 m) in length during all sets. Accordingly, all floatlines must be fished at a minimum of 36 feet (10.9 m) below the surface of the water.” POCTRP 229.31(b)

Draft Potential Regulatory Text for BDTRP: [Need to work on this with Bill and shark gillnetters.](#)

Restrictions applicable to shark gillnet gear in the Southeastern U.S. Atlantic shark gillnet fishery. (1) Extenders. No person may fish in the Southeastern U.S. Atlantic shark gillnet fishery unless that gear is equipped with extenders. An extender is a line that attaches a buoy (float) to a gillnet’s floatline. The floatline is attached to the top of the gillnet. All extenders (buoy lines) must be at least x ft; x m in length during all sets. Accordingly, all floatlines must be fished at a minimum of x feet (x m) below the surface of the water.

Issues: What is the appropriate depth?

E. Require gear marking. The gear must be identifiable to individual (e.g. CG doc. no.)

Existing, Comparable Regulatory Text:

“Gear requirements and limitations—(1) Waters off New Jersey—large mesh gear requirements and limitations. From January 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any small mesh gillnet gear

in waters off New Jersey, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in waters off New Jersey with small mesh gillnet gear on board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:" (MA HPTRP, 229.34(c)

or

"Beginning January 1, 2002, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets." HPTRP 229.34(c)(2)(vi)

****Need part specifying what's on tag*****

Draft Potential Regulatory Text for BDTRP:

Gear requirements and limitations—(1) U.S. Waters off South Carolina, Georgia, and Florida—gillnet gear requirements and limitations. No person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any gillnet gear in U.S. waters off South Carolina, Georgia, or Florida, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in waters off South Carolina, Georgia, or Florida with gillnet gear on board, unless the gear complies with this requirement or unless the gear is stowed. In order to comply with this requirement, the gear must have all the following characteristics:

(1) Markings. All specified gear in specified areas must be marked with the vessel identification number. Each marking must be permanently affixed on or along the line or lines. Each marking must be clearly visible when the gear is hauled or removed from the water.

[Make consistent with existing requirements in Spanish mackerel fishery \(to encompass currently unmanaged fisheries\).](#)

Issues:

- What should be marked- (e.g., the vessel id?)
- How should it be labeled? (i.e., on tags? Floats? What specifications?)
- What gear should be labeled? (e.g., all gillnet gear under jurisdiction of the plan)
- Do we wish to generalize this recommendation to encompass all fisheries in the Take Reduction Plan?

F. Conduct gear research. Research reflectivity (e.g. European experiment using metal disks w/in webbing) and net stiffness.

Existing, Comparable Regulatory Text:

"Other special measures. The Assistant Administrator may revise the requirements of this section through a publication in the FEDERAL REGISTER if:

(i) NMFS verifies that certain gear characteristics are both operationally effective and reduce serious injuries and mortalities of endangered whales...(ALWTRP 229.32(g)(2)

Draft Potential Regulatory Text for BDTRP:

"Other special measures. The Assistant Administrator may revise the requirements of this section through a publication in the FEDERAL REGISTER if:

(i) NMFS verifies that certain gear characteristics are both operationally effective and reduce serious injuries and mortalities of bottlenose dolphins.

Non-Regulatory Recommendations

A. Improve enforcement.

Existing, Comparable Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None.

Issues:

- Is this specific only to SC, GA, and FL?
- Do we want to expand this to a more general recommendation?

B. Encourage best fishing practices. Fishers indicated that most takes occurred when an inexperienced captain was in charge. This captain fished under conditions under which an ordinary captain would not have fished to target sharks (i.e. calm, clear, very little phosphorescence visible, etc.).

Existing, Comparable Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None. Pursue through outreach meetings that may/not be required by regulations.

Issues:

- Should this recommendation be expanded to the other areas/fisheries?

C. Improve monitoring via outreach/education. Educate fishers regarding requirement to report takes.

Existing, Comparable Regulatory Text:

“Vessel owners or operators engaged in any commercial fishery must report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Assistant Administrator, or appropriate Regional Office, by mail or other means, such as fax or overnight mail specified by the Assistant Administrator. Reports must be sent within 48 hours after the end of each fishing trip during which the incidental mortality or injury occurred, or, for nonvessel fisheries, within 48 hours of an occurrence of an incidental mortality of injury....” (Reporting Requirements, 229.6(a))

Draft Potential Regulatory Text for BDTRP: None. Non-regulatory measure would likely be needed.

Issues: Should this recommendation be expanded to the other areas/fisheries?

D. Educate fishers regarding need to contact stranding network for disentanglement.

Existing, Comparable Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None

Issues:

- Should this recommendation be expanded to the other areas/fisheries?
- Is the issue to educate the fishers about contacting the disentanglement network or is the issue to mandate that fishers contact the disentanglement network?
- Is this marine mammal species-specific? (i.e., only whales, etc.?)

E. Educate enforcement agents (incl. state/local) about the need to report strandings.

Existing, Comparable Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None

Issues:

- Should this recommendation be expanded to the other areas/fisheries?
- Is the issue to educate the enforcement agents about contacting the disentanglement network or is the issue to mandate that enforcement agents contact the disentanglement network?
- Is this marine mammal species-specific? (i.e., only whales, etc.?)

F. Increase level of observer coverage. Provide statistically viable sample size throughout all fisheries/subfisheries interacting with bottlenose dolphin. Implement a rotational schedule to achieve observer coverage or alternative monitoring programs for all such category II fisheries.

Existing, Comparable Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None

Issues:

- What level of coverage (i.e., 100%)? If it is not 100% coverage- no additional regulatory text is required. (It would depend on the level of effort and bycatch rate for each fishery.)
- Do we wish to generalize this recommendation to encompass all fisheries in the Take Reduction Plan?

G. Improve quality of stranding and observer data. Increase levels of stranding coverage (per crab pot recommendations), improve network training (especially of the identification of fisheries interactions), improve observer training provide observers with adequate equipment (e.g. water proof digital cameras refer to crab pots), establish dedicated beach surveys in areas/during times where observer coverage is lacking.

Existing, Comparable Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None. Pursue through non-regulatory means or implement through increasing observer coverage (separate recommendation).

H. Improve communication between stranding network and observer programs. This should be real time communication.

Existing, Comparable Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None. Pursue through non-regulatory means.

I. Improve frequency & coverage of abundance surveys. This should be done especially in southern states and estuarine waters. Ensure adequate coverage, and conduct a power analysis of how capable we are now to assess changes of 30%, 50% changes in takes.

Existing, Comparable Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None. Address through the List of Fisheries?

IV. Blue Crab Pot Fishery

Non-Regulatory Recommendations [\(ALL MEASURES IN THIS FISHERY ARE NON-REGULATORY\)](#)

A. Develop and distribute brochures, videos, and articles.

[NMFS \(perhaps in concert with Councils\) should develop materials, then work with states for distribution. States can take electronic copies and incorporate in existing mailouts, etc. for widespread distribution. Rural papers would be happy to distribute educational pieces, which could be distributed via states.](#)

1. Content.

- a. Illustrate learned behavior of bottlenose dolphin.
 - i. Pot tipping.
 - ii. Bait stealing.
- b. Recommend the use of sinking lines to reduce “ghost” pot production due to boat traffic and suspected entanglements in floating loops as a pro-active measure [\(Scope – don’t have any more rope out there than you absolutely need\)](#).
- c. Inform on the harms of derelict or abandoned gear and local disposal areas for their collection maybe through a hotline number and VHF.

2. Distribution.

- a. Commercial Fishers: Trade shows, industry conventions and meetings of Waterman’s Associations, gear licenses’ purchasing locations, buyer’s place of business, and marinas.
- b. Recreational Fishers: Gear licenses’s locations, public marinas, boat ramps, articles/ads in sport fishing magazines, and web sites.

Comparable Existing Regulatory Text: None

Draft Potential Regulatory Text for BDTRP: None. Pursue through non-regulatory means.

B. Remove derelict pots.

[Review existing programs for Gulf and Atlantic states with closed season – encourage similar programs in other Atlantic states.](#)

States are strongly encouraged to develop, implement, and enforce a program for the removal of derelict blue crab pots and their associated lines from any and all water bodies frequented by bottlenose dolphins. If such a program exists within a state, that state is strongly encouraged to maintain and effectively enforce that program.

Comparable Existing Regulatory Text: None

Draft Potential Regulatory Text for BDTRP: None. Pursue through a non-regulatory approach.

Issues:

- Expand to address all derelict pot gear, and not just blue crab pots?

C. Improve the Stranding Network.

1. Improve post-mortem assessments by the stranding network. (of potential interactions between bottlenose dolphins and commercial-type crab pot gear).

- a. NMFS should provide funding to organize and conduct a workshop/training session to bring together the information and people necessary to accomplish this objective.
- b. The results of the workshop should be compiled in a document or other format (for example: training manual, photos, PowerPoint presentation, video) that would be used to train additional stranding network personnel.
- c. The protocol should include the involvement of fishermen in the assessment of stranded dolphins with evidence of entanglement and in the examination of any gear retrieved.
- d. NMFS should establish a repository for gear removed from stranded dolphins and other marine mammals. Gear would be stored and cataloged for future use.
- e. Information about crab pot entanglements learned from the assessment of stranded animals should be conveyed to the fishermen through the outreach and education component of the plan.

2. Improve the observation of, reporting of, and response to stranded bottlenose dolphins in inside waters.

- a. In states where it does not exist, NMFS should provide funding for a toll-free reporting hotline to facilitate the timely reporting and response to stranded marine mammals.
- b. NMFS should provide funding to organize and conduct formal trainings/workshops for state and local marine patrols (and other invitees) regarding marine mammal-fisheries interactions and their role in supporting the stranding network.

- c. NMFS should formally request that federal, state and local marine patrols monitor inside waters for any evidence of bottlenose dolphin mortalities or fisheries interactions, including the blue crab fishery.
- d. NMFS should formally request that federal, state and local marine patrols assist the stranding network in responding to stranded marine mammals.
- e. NMFS should provide funding for directed aerial, vessel or shore-based surveys in areas and/or seasons of concern.

Comparable Existing Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None. Pursue through non-regulatory means.

D. Recommend inverted baitwells.

For any areas that have a problem with bottlenose dolphin takes with crab traps, we encourage them to make available to the crabbers the option of fishing an inverted baitwell in the crab traps.

Comparable Existing Regulatory Text: None.

Draft Potential Regulatory Text for BDTRP: None. Pursue through non-regulatory means.

Issues:

- Who should the oversight agency be? States? or NMFS?
- Are there any state restrictions to using inverted baitwells?
- Is there a research request in this recommendation?
- Is there also an education/outreach component intended to let the fishers know that the gear modification exists and that it assists in take reduction efforts?

E. Recommend the use of a sinking or negatively buoyant line. (i.e., either nylon or polyester, so as to minimize excess line floating at the surface, or loops suspended in the water column)

Comparable Existing Regulatory Text:

“Restrictions applicable to shark gillnet gear—(1) Management areas—(i) Southeast U.S. restricted area. The southeast U.S. restricted area consists of the area from 32 ° 00' N lat. (near Savannah, GA) south to 27°51'N lat. (near Sebastian Inlet, FL), extending from the shore eastward to 80°00' W long., unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section.” (ALWTRP 229.32(f)(1))

in combination with

“Sinking buoy lines. All buoy lines must be comprised of sinking line except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line.” (ALWTRP 229.32 (c)(2)(ii)(D))

and/or

“Sinking ground line. All ground lines must be comprised entirely of sinking line.” (ALWTRP 229.32 (c)(2)(ii)(E))

Draft Potential Regulatory Text for BDTRP: None. Pursue through a non-regulatory approach.

Issues:

- Need to specify a southern boundary by longitude/latitude? Use the List of Fisheries definition of the fishery, especially since this is just a recommended measure.

F. Better determine the frequency of interactions. NMFS should obtain accurate estimates of the numbers of bottlenose dolphins and the nature and frequency of their interactions with crab pots in estuaries, sounds, and bays.

Comparable Existing Regulatory Text: None

Draft Potential Regulatory Text for BDTRP: None. Pursue through non-regulatory means.

G. Restrict the maximum scope. Suggest a maximum scope or ratio of hauling line length to water depth. Reduce the overall length of line in the water column.

[Incorporate into education/outreach program.](#)

Comparable Existing Regulatory Text:

“Restrictions applicable to shark gillnet gear—(1) Management areas—(i) Southeast U.S. restricted area. The southeast U.S. restricted area consists of the area from 32 ° 00' N lat. (near Savannah, GA) south to 27°51'N lat. (near Sebastian Inlet, FL), extending from the shore eastward to 80°00' W long., unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section.” (ALWTRP 229.32(f)(1))
in combination with

Issues:

- Are we specifying scope for the buoy line and/or the ground line(s)? **NO.**
- Is this practicable?
- What is the maximum scope that we want to specify? **N/A**

V. General Questions

- Should the rule be organized by area or by type of gear restriction? What would be easier for the fishers?

Group that Addressed Research and Monitoring

On Wednesday afternoon, this group had a wide-ranging, somewhat more theoretical, and productive discussion about monitoring and research. On Thursday their discussion was more focused. They developed an outline for this topic. They charged members of the group with fleshing out assigned sections between this meeting and the April meeting. The names of Team members and alternates who will work on sections are noted in the parenthetical phrases.

I. Input into the take reduction team process (Tim R.)

- A. Stock identification (Bill M., Carl P., Ari F.)
- B. Stock abundance and trends (Bill M., Butch R., VMS, Ari F.)
- C. Stock status (Tim R.)
- D. Bycatch estimation (Tim R., Deb P., Bill M., Doug H., Mike T., VMS, Ari F.)
 - 1. Parameters of existing system
 - 2. Performance criteria or standards
- E. Measures to reduce bycatch (Joe De, Margaret M.)
- II. Develop solutions for existing gaps, including resources needed
 - A. Stock identification
 - estuarine dolphins
 - winter North Carolina mixed stock
 - distribution and movement patterns and relation to environmental parameters
 - B. Stock abundance and trends
 - develop methods to simultaneously estimate abundance of coastal stocks and define stock division lines
 - C. Stock status
 - D. Measures to reduce bycatch (Joe De)
 - understanding of dolphin behavior around gear
 - E. Bycatch estimation -observer program, stranding, etc.
 - 1. Observer
 - stock identification of mortalities
 - maximize information from each mortality
 - observer coverage and training
 - 2. Stranding
 - stock identification of mortalities
 - relation of scarring to fishery interactions
 - portion of killed animals stranding
 - maximize information from each mortality
 - 3. Other
 - stock identification of mortalities
- III. Recommendations
 - A. Stock identification
 - B. Stock abundance
 - C. Stock status
 - D. Measures to reduce bycatch
 - E. Bycatch estimation -observer program, stranding, etc.

North Carolina Group

This group asked the facilitators to print a revised version of the earlier table reporting tentative recommendations for the Winter Mixed Stock Management Unit. As instructed by the group, the facilitator printed off enough copies of this document on green paper for the members of this group. During the Thursday morning session and after the so-called “green sheet” had been referred to, additional copies of this working document were made on white paper and distributed to the rest of the Team. (Document 3-27-02 Y)

On Thursday the group continued its deliberations and revised and updated the recommendations. (Note that the use of boldface type and italics reflects the group's choices.)

NC Winter Mixed & Summer Northern Migratory Management Units
March 27, 2002

Proposed Regulatory Measures for NC Fisheries November 1 through April 30 (as revised 3/27/02, modifications identified by italics and strike-throughs)

Small Mesh (<5")	Medium Mesh (5 – 7")	Large Mesh (>7")
<p>Options for North of Cape Lookout</p> <p>Research & Monitoring: Adequate observer coverage for small mesh fisheries.</p> <p>Gear testing on twine size, configuration, and net depth.</p> <p>No untended gear overnight (rejected because there have been no takes in these nets—no justification)</p>	<p>Options for North of Cape Lookout</p> <p>No overnight sets of sinking gillnets within 6km or 3.6m from shore and bring gear home.</p> <p><i>No untended night sets of sinking gillnets within 6 km or 3.6 m from shore. (Tended gear means "fishing gear that is physically attached to a vessel in a way that is capable of harvesting fish, or to fish with gear attached to a vessel." Night means "any time between one hour after sunset and one hour before sunrise.")</i></p> <p>Recognition that should the spiny dogfish fishery be reopened as a directed fishery, the TRT shall revisit the issue and consider the need for establishing regulations for that fishery and other fisheries (gear type, soak times, length of net, etc.).</p>	<p>Options for North of Cape Lookout</p> <p>Beach haul seine: Require the use of a 4" or less mesh. (This is to be applied year-round.)</p> <p><i>Gillnets: No night sets without tie-downs within 3 miles form shore. (Night means "any time between one hour after sunset and one hour before sunrise.")</i></p> <p>(Gillnets with tie-downs: After April 1, in the event that the water temperatures reach 52F, gillnets with tie-downs will be prohibited from fishing within 3 miles from shore until December 31.)</p> <p>- looking for further guidance on this issue</p> <p><i>Beach haul seine & stop net: Any gear attached or anchored to, or fished from the beach must use 4" stretch mesh or less. (This is to be applied year-round.)</i></p> <p>Non-consensus option: No overnight sets without tie-downs for all gillnets (a net mod required by Harbor Porpoise plan that keeps the net to bottom 4 feet of water).</p>
<p>Options for South of Cape Lookout</p>	<p>Options for South of Cape Lookout</p>	<p>Options for South of Cape Lookout</p>

<p>Research & Monitoring: Adequate observer coverage for small mesh fisheries. Need to provide observers of the SC fishermen who fish in southern NC waters.</p> <p>Gear testing on twine size, configuration, and net depth</p> <p>No untended gear overnight (rejected—rejected because it is not economically feasible).</p>	<p>No overnight sets of sinking gillnets within 6km or 3.6m from shore and bring gear home.</p> <p><i>No night sets of sinking gillnets within 6 km or 3.6m from shore. (Night means “any time between one hour after sunset and one hour before sunrise.”)</i></p> <p>Recognition that should the spiny dogfish fishery be reopened as a directed fishery, the TRT shall revisit the issue and consider the need for establishing regulations for that fishery and other fisheries (gear type, soak times, length of net, etc.).</p>	<p>Beach haul seine: Require the use of a 4” or less mesh. (This is to be applied year-round.)</p> <p><i>Gillnets: No night sets within 3 miles. (Night means “any time between one hour after sunset and one hour before sunrise.”)</i></p> <p><i>Beach haul seine & stop net: Any gear attached or anchored to, or fished from the beach must use 4” stretch mesh or less. (This is to be applied year-round.)</i></p> <p>Non-consensus option: No overnight sets without tie-downs for all gillnets.</p>
--	--	--

- Group also discussed potential measures for long haul seines, and decided to not recommend any gear modification measures. It was recommended, however, that when setting gear, fishermen should be encouraged to not intentionally encircle dolphins in the gear to avoid any potential gear interactions.
- Need to revisit the VA striped bass fishery to refine the language under the 3rd option of draft regulatory language, pg 17 (i.e. dates and lat/long)

Recommendations for Summer NC Management Unit (May 1 – October 31)

Proposed Regulatory Measures for NC Fisheries May 1 through October 31 (as revised 3/27/02, modifications identified by italics and strike-throughs)

Small Mesh (<5’)	Medium Mesh (5 – 7’)	Large Mesh (>7’)
<p>Options for North of Cape Lookout</p> <p>Research & Monitoring: expanded observer coverage for small mesh fisheries.</p>	<p>Options for North of Cape Lookout</p>	<p>Options for North of Cape Lookout</p> <p>- no measures recommended because of existing state regulations which prohibit the use of large mesh (>7’) from April 1 through December 15 in state waters.</p>

Options for South of Cape Lookout	Options for South of Cape Lookout	Options for South of Cape Lookout
Research & Monitoring: expanded observer coverage for small mesh fisheries.		- no measures recommended because of existing state regulations which prohibit the use of large mesh (>7") from April 1 through December 15 in state waters.

Notes: fisheries south of cape lookout, small mesh gear:
target species include kingfish, bluefish, sp. Mackerel, mullet strike sets, spot;
current regs: must tend gillnets from May thru October (multiple net tending)

Previously defined measures for discussion purposes, no action or consensus reached on the below:

Definition of tended nets: Should it be area specific as the medium Mesh recommendations for NC, or should we strive for consistency and try and apply the definition proposed by the group working on the Northern Migratory Unit?

Information and education: Who would be responsible for getting the information out to the public—NMFS, how, what are the roles for the TRT and states? Discussion of recommendation by the group working on the Northern Migratory Unit that MMPA permit holders be required to attend a workshop on bottlenose dolphin (protection measures) every three years in order to renew the MMPA permits.

Discussion points from the February meeting in Virginia Beach:

- We defined the regulated area as ocean-ward of the COLREGS line.
- Justification for leaving out internal waters:
 - No bottlenose dolphin population estimate in area landward of COLREGS.
 - No allocated PBR for above area.
 - Lack of fishery effort and harvest data in area.
 - No observed takes in area.
 - Few fisheries interaction strandings in area.
- Recommendations for waters landward of COLREGS:
 - Increased observer coverage.
 - Develop abundance estimates (and PBR estimates) for internal waters.
 - Include area in information & education (I&E) efforts.
- Within the regulated area we recommend:
 - No overnight, unattended net sets with mesh size ≥ 5 inch (need to check with stakeholders not present at meeting).
 - Gear modifications to prevent collapse of nets at distal ends (primarily on anchored gear).
 - Gear modification to eliminate spaces between net panels on a string by requiring net

- panels to be laced together.
- Investigate the possibility of reducing slack in lead lines of pound nets identified as interacting with bottlenose dolphin from stranding data (primarily VA).

Group that Revisited the Northern Coastal Migratory Management Unit

This group reviewed the Draft Potential Regulatory Text report (Document 3-27-02 X) and made the following comments.

Page 4:

I. Definitions:

“Exempted waters,” means all waters landward of the first bridge over any embayment, harbor, or inlet or all waters landward of the 72 COLREGS line in those instances where there is no bridge over said embayment or harbor close to the mouth of said embayment or harbor, as in the case with the Delaware Bay.

“Tend,” means that a vessel which set a gillnet shall remain within 500 yards of said set gillnet.

III. Northern Migratory Unit in Summer Recommendations

A. Should be changed to read, “No overnight, unattended net sets with mesh of 5 inches or greater within regulated state waters.”

Draft Regulatory Text:

For the purposes of this section, “night” shall mean that time period beginning one hour after sunset and shall end one hour before sunrise.

From May 1 through October 31, annually, no person shall fish with gillnets with a stretched mesh of five inches or greater at night in state regulated waters of the Northern Migratory Coastal Bottlenose Dolphin Management Area unless that gear is tended.

B. Prevent collapse of nets at distal ends of anchored gillnets.

Draft non-regulatory text:

From May 1 through October 31, annually, fishers using anchored gillnets with a stretched mesh of five inches or greater within the waters of the Northern Migratory Coastal Bottlenose Dolphin Management Area are encouraged to use gillnets with the gear specification characterized in (1) through (x) below:

- (1) No bridle or a modified bridle is used to attach the gear to the anchor so that there is not pressure on the float rope great enough to collapse the end of the net. [This needs help from the fishermen.]
- (2) Floatation used within X feet of the ends of the net shall have X times the buoyancy of the floats used in the rest of the floatline. . [This needs help from the fishermen.]

* Include this with the mandatory educational program.

** Conduct research on the use of the above referenced gear modifications to determine if, and to what extent, this modification results in take reductions.

C. Require net panels to be laced together.

Draft non-regulatory text:

From May 1 through October 31, annually, fishers using anchored gillnets with a stretched mesh of five inches or greater within the waters of the Northern Migratory Coastal Bottlenose Dolphin Management Area are encouraged to use gillnets with the gear specification characterized in (1) through (x) below:

- (1) All multi-panel gillnets should be laced together with XX (i.e., rope or other specified material) such that any inter-panel distance is less than or equal to the mesh size of each panel.

* Include this with the mandatory educational program.

** Conduct research on the use of the above referenced gear modifications to determine if, and to what extent, this modification results in take reductions.

Educational Program

Create a mandatory education program for captains or operators of gillnet vessels within the Bottlenose Dolphin Management Area. After a date certain, each captain or vessel operator would have to have completed the mandatory educational class in order to maintain or obtain his or her marine mammal exemption permit. Thereafter, each captain or vessel operator would be required to take the mandatory education class not less frequently than every three years.

Enforcement could be aided by having a vessel decal program with the last number of the year in which the captain or vessel operator would qualify for the exemption permit (based upon a three year education program).

Appendix 1—Observers attending the March 27-28, 2002, Meeting

Sue Barco
VMSM

Wayne McFee
NDS

Leslie Burdett
University of Charleston

Katie Moore
NMFS

Barbie Byrd
NOAA/NMFS

Gretchen Newman
NUCW

Shepherd Grimes
NOAA GESE

Jacqueline Poppell
Georgia Watermen's Assoc.

Ari Friedlaender
Duke University

Charles Raterman
NOAA Enforcement

Stephen Holiman
NOAA/NMF/SERO

Mike Tork
NMFS – NEFSC

Nicolas Hopkins

Danielle Waples

Dan Hytrek
NOAA GCF

Appendix 2—Public Comment

One individual provided written comment as follows:

The majority of my comments are on document 03-27-02 F

Although I realize that the document was developed as a response to a specific question and was put together quickly, I feel that there were several problems that were not addressed.

1. The TRT needs to understand that stranding data are opportunistic/reactionary data. Without reporting, there are no stranding responses. Therefore, effort is a key component of any stranding analysis. Effort relates not only to how many people are in an area responding to strandings but also whether (or how long after the event) strandings are reported and how experienced and how well equipped and trained the stranding response personnel are. I argue that while there have been people paid to respond to strandings in NC throughout the reporting time period, the quality of their efforts varied greatly. There were directed beach based surveys conducted by experienced personnel during some years (97-99) and completely inexperienced personnel without much equipment, training or assistance in other years (2000-present). This may have affected the data as much as a reduction in the fishery and should at least have been acknowledged in the presentation.
2. North Carolina does not exist in a vacuum. Decreases in strandings in NC were paralleled by an increase in FI Tt's in southeastern VA (where stranding response effort has been very consistent since 1993). Both the decreases in NC and the increases in VA were possibly related to the dogfish fishery (i.e. the striped bass fishery may be implicated in the VA strandings/takes but many of those fishers were taking dogfish in VA and probably also in NC). Strongly suggesting that the loss of the dogfish fishery has gone a long way to solving the problem without acknowledging that other problems now exist is irresponsible. Again, acknowledging that the paper was put together to answer a specific question, it makes much more sense to report stranding data in biological units (Cape Henry to Cape Hatteras or Cape Lookout for the winter mixed stock or the winter N. migratory stock) instead of along political boundaries.
3. The data in Figure 1 do not match the data in Figure 2.

Other Comments on the Process

Is NMFS hoping to elucidate stock structure in NC in the winter and manage the stocks separately? If so, the possibility of summer takes/FI strandings from the Coastal Migratory Stock VA-NJ and winter takes/FI strandings from Cape Lookout – Chesapeake Bay affecting the same

stock/management unit is quite high. The VA & NC fishers are going to be completely blindsided by this possibility if you don't mention it soon (like 2 meetings ago). A second individual provided written comment as follows:

Concerning document 03-27-02 F:

The data in Figures 1 and 2 are inconsistent with each other and with Friedlander et al 2002, document 03-27-02 T.

In the 2 months that I checked, I found the following inconsistencies:

October 1997: Figure 1- 8 strandings (HI=yes and CBD)

Figure 2- 8 HI = yes AND 4=CBD

*** Figure 1 numbers should not be different from Figure 2 numbers

October 1998: Figure 1- 4 strandings (HI=yes and CBD)

Figure 2- 7 HI=yes AND 3 =CBD

Friedlaender *et al* Table 2. 7 strandings (5 HI =yes, 2=CBD in Brunswick County, NC)

*** Figure 1 numbers should not be less than published numbers from Brunswick County alone in Table 2. Friedlaender *et al.* 2002

Appendix 3—Letter from the TRT to Dr. Hogarth

The Team wrote the following letter and instructed the facilitators to sign and send it to Dr. Hogarth. Note that copies were also sent to Bob Kenney, Chair of the SRG, and Don Knowles, Protected Resources Division Chief.

Bottlenose Dolphin Take Reduction Team

c/o The Georgia Environmental Policy Institute
380 Meigs St. Athens, GA 30601
706.546.7507

March 28, 2002

Dr. William Hogarth
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Dr. William Hogarth:

The Bottlenose Dolphin Take Reduction Team, in consensus, respectfully requests that NMFS expedite the analyses of the 2002 winter survey for bottlenose dolphin, including biopsy results. We further request that the Atlantic SRG review these analyses and provide recommendations to the NMFS prior to the Bottlenose Dolphin Take Reduction Team meeting scheduled during the public comment period for the proposed rule. We would ask that your office ensure that the necessary resources are provided to accomplish this request so that we can achieve a fair and scientifically sound set of recommendations.

Thank you for your consideration in this matter.

Respectfully,

Dr. James A. Feldt, Facilitator
On behalf of the Bottlenose Dolphin Take Reduction Team

cc: Bob Kenney, Don Knowles